WP(C) 1202/2000
BEFORE
HON'BLE MR. JUSTICE B.K. SHARMA

1. Heard Mr. T.J. Mahanta, learned counsel for the petitioner and Mr. P.K. Roy, learned Standing Counsel, ONGC.

2. This writ petition was filed way back in 2000 by the petitioner who during pendency of the writ petition died. Now his wife, Smt. Anima Dutta is the substituted petitioner as was allowed by this Court by order dated 06.04.05.

3. The material particulars relating to the case has already been mentioned in the order passed on 18.01.07 by which the Deputy Commissioner, Sibsagar was requested to furnish report relating to the rate of compensation and/or the rent of the land belonging to the petitioner which has been under use of the ONGC since 1968. The original petitioner, i.e. the husband of the petitioner, was a cultivator in respect of the land measuring 2 bighas, 1 kathas, 13 lechas under dag No. 196, patta No. 116 of Bhajanigaon, Mouza Silakuti of Sibsagar District. The land was occupied by the ONGC way back in 1968 for installation of four pipe lines. It is the grievance of the petitioner that although the ONGC occupied the land by installing four pipe lines, but no compensation has been paid.

4. In paragraph-6 of the writ petition, the petitioner has stated that because of installation of pipe lines by the ONGC there is difficulty in carrying out cultivation and so the family has suffered. In paragraph- 7 of the writ petition, the petitioner has also stated about his intention to construct a house over the said plot of land. However, because of occupation of the land by the ONGC, he could not do so. It is the case of the petitioner that in view of such occupation of the land by the ONGC, he is not in a position to use the land either for cultivation or for construction of a residential house.

5. The respondents have filed their counter affidavit stating that the petitioner was paid compensation of an amount of Rs. 1776/-. However, on scrutiny to the materials, it is found that the petitioner was paid compensation only for 1 lecha of land and that too, for the use of installation of T band in the pipe lines. The respondents have filed counter affidavit in March, 2006, i.e. after 6 years of filing of the writ petition. Unfortunately, the respondents have taken the plea that the claim of the petitioner is belated. The respondents have not denied that land has been under their occupation since 1968. However, their case is that since the petitioner has been paid the aforesaid compensation of Rs. 1776/-, he is not entitled to any further compensation.

6. Recording the aforesaid pleas of the parties, this Court as recorded in the order dated 18.01.07 is of the opinion that the petitioner is entitled to compensation for occupation of the land by the ONGC. It will be pertinent to mention here that as per the provision of Petroleum and Minerals, Pipelines (Acquisition of Right of User in Land) Act, 1962, the authority is required to publish a notification of acquisition and declaration of acquisition and right of user. Sections 3 and 6 of the Act provide for the same.

7. In the instant case, admittedly no such notification has been issued by the authority and yet the ONGC has been occupying the land since 1968. Such action on the part of the ONGC cannot be appreciated. Instead of showing good gesture, they have rather opposed the claim of the petitioner even by taking the unsustainable plea of limitation. This is unbecoming to the organization like ONGC. It gives an impression that the ONGC authority exercising its might and power can hoodwink the poor cultivator.

8. Pursuant to the order passed by this Court on 18.01.07 requesting the Deputy Commissioner to make an assessment of the rate of compensation for use of t

he land since 1968, the Deputy Commissioner, Sibsagar has furnished his report quantifying the amount of compensation at Rs. 4,96,290/- at the rate of Rs. 1,50,000/- per bigha including the additional charge 30% and 12% on the principal amount. The amount of compensation has been assessed on the basis of existing zonal valuation fixed by the District Authority.

9. The petitioner showing her good gesture has made it known that she is agreeable to accept the aforesaid amount of compensation. However, the ONGC by filing an additional affidavit has questioned the very ascertainment of compensation by the Deputy Commissioner. According to them, the amount of compensation is in the higher side. They have reiterated their stand in the additional affidavit. In paragraph-3 of the additional affidavit, it has been stated that the petitioner is still the owner of the land in question although pipe lines are there. According to the ONGC, the Deputy Commissioner has wrongly assessed the amount of compensation taking it to be a case of land acquisition.

10. I have considered the submissions made by the learned counsel for the parties and the materials on record. The ONGC in its affidavit has not taken any definite plea. It is not their case that they have made use of the land as per the provision of the aforesaid Act. On being asked and requested on number of times, Mr. P.K. Roy, learned Standing Counsel could not produce the notifications as required to be issued under Sections 3 and 6 of the Act. Thus, here is a case in which the ONGC has been occupying the land of the petitioner without following the provision of the Act, but yet they have denied their liability to pay compensation. Since the land is under the occupation of the ONGC by way of installation of four pipelines, the petitioner is not in a position to utilize the land either for proper cultivation or for construction of a residential house. It is rather unfortunate that an organization like ONGC has taken the plea that since the petitioner has been paid an amount of Rs. 1776/-, it has no further liability. In fact, they are guilty of violation of the aforesaid provisions of the Act.

11. In view of the above, I allow the writ petition with a direction to the ONGC to pay the amount of Rs. 4,96,290/- being the compensation for acquisition of the land under their occupation since 1968. Necessary follow up action shall be carried out by the ONGC authority as expeditiously as possible, but not later than 31st January, 2008. The said amount of compensation shall be paid within the target date failing which same will carry an interest of 12% P.A.

12. The petitioner was forced to approach this Court for illegal action on the part of the ONGC authority. During the pendency of the writ petition, the husband of the petitioner died. This proceeding had to be initiated by the petitioner due to apathy shown by the ONGC authority. The petitioner was a poor cultivator and the ONGC authority instead of responding to the writ proceeding, has delayed the matter by not filing counter affidavit for six years.

13. For the foregoing reasons, I am of the considered opinion that it is a fit case for awarding cost. Accordingly while allowing the writ petition, a cost of Rs. 10,000/- is imposed on the ONGC authority payable to the petitioner.

14. Learned counsel for the petitioner, upon instruction, submits that the petitioner is ready to relinquish her right over the plot of land subject to the condition that the amount of compensation fixed by the Deputy Commissioner, Sibsagar is paid to her by the ONGC authority within the target date. Alternatively it will be open for the parties to execute relinquishment deed/sale deed etc.